



## State of New Jersey

DEPARTMENT OF THE TREASURY  
DIVISION OF PURCHASE AND PROPERTY  
OFFICE OF THE DIRECTOR  
33 WEST STATE STREET  
P. O. BOX 039  
TRENTON, NEW JERSEY 08625-0039  
<https://www.njstart.gov>  
Telephone (609) 292-4886 / Facsimile (609) 984-2575

PHILIP D. MURPHY  
Governor

ELIZABETH MAHER MUOIO  
State Treasurer

SHEILA Y. OLIVER  
Lt. Governor

MAURICE A. GRIFFIN  
Acting Director

December 22, 2020

*Via Electronic Mail Only eelefante@cmcbenz.com*

Edward Elefante  
Contemporary Motor Car, Inc.  
100 Oceanport Avenue  
Little Silver, NJ 07739

Re: I/M/O Bid Solicitation #20DPP00487 Contemporary Motor Car, Inc.  
Protest of Notice of Proposal Rejection  
T2103-Vehicles, Cargo Vans, Class 1/2/3, Regular/Extended

Dear Mr. Elefante:

This final agency decision is in response to your email of December 18, 2020, on behalf of Contemporary Motor Car, Inc. (CMC) which was received by the Division of Purchase and Property's (Division) Hearing Unit. In that email, CMC protests the Notice of Proposal Rejection issued by the Division's Proposal Review Unit for Bid Solicitation #20DPP00487 - T2103 Vehicles, Cargo Vans, Class 1/2/3, Regular/Extended (Bid Solicitation). The record of this procurement reveals that CMC's Quote was rejected for failing to submit the *Ownership Disclosure Form* with its Quote.

By way of background, on October 30, 2020, the Division's Procurement Bureau (Bureau) issued the Bid Solicitation on behalf of the Department of the Treasury, Bureau of Transportation Services, and various other State Agencies. Bid Solicitation §1.1 *Purpose and Intent*. The purpose of the Bid Solicitation was to solicit Quotes for 2020 model year or later Vehicles, Cargo and Cargo/Crew Vans, Small/Class 1/2/3/4, Regular/Extended Lengths, with Low, Medium and High Roof Configurations and Various Drivetrains. *Ibid*. It is the State's intent to award Master Blanket Purchase Orders (Blanket P.O.s) to those responsible Vendors {Bidders} whose Quotes, conforming to this Bid Solicitation are most advantageous to the State, price and other factors considered. *Ibid*.

On December 17, 2020, the Division's Proposal Review Unit opened nine Quotes which were received by the submission deadline of 2:00 pm eastern time. After conducting a review of the Quotes received, the Division's Proposal Review Unit issued a Notice of Proposal Rejection to CMC for failing to submit the *Ownership Disclosure Form* with its Quote. In response to the Notice of Proposal Rejection, on December 18, 2020, CMC sent an email to the Division's Hearing Unit stating:

Ownership papers were filed once before. Please find the same copies I sent back in November – We have been doing business since 1978 with no changes.

We are a federal government contractor in excellent standing for 4 years. To exclude us over missing papers siting who the owner is nuts, it's on file everywhere in NJ and we again sent it in November losing them is serious.

We are also a loyal NJ Company here for 42 years.

Find enclosed again the papers we submitted including ownership papers.

We also have New Jersey vendor ID # V0007406. Don't you need to be approved to get that?

With the protest, CMC included a 17-page document, which it purports is the submitted Quote.

In consideration of CMC's protest, I have reviewed the record of this procurement, including the Bid Solicitation, CMC's Quote and protest, the relevant statutes, regulations and case law. The review of the record has provided me with the information necessary to determine the facts of this matter and to render an informed final agency decision on the merits of the protest.

The Division's administrative regulations that govern the advertised procurement process establish certain requirements that must be met in order for a Quote to be accepted. Those regulations provide in relevant part that:

- (a) In order to be eligible for consideration for award of contract, the bidder's proposal shall<sup>1</sup> conform to the following requirements or be subject to designation as a non-responsive proposal for non-compliance:

...

4. Contain all RFP-required certifications, forms, and attachments, completed and signed as required. An RFP may designate certain forms and/or certifications that need not be included in the bidder's proposal but that must be provided by a successful bidder upon request prior to an award of contract;

[N.J.A.C. 17:12-2.2(a), emphasis added.]

If the requirements of N.J.A.C. 17:12-2.2 are not met, a Quote must be rejected. This regulation mandates stringent enforcement to maintain the equal footing of all Vendors {Bidders} and to ensure the integrity of the State's bidding process.

The subject procurement was comprised of the Bid Solicitation, other documents and mandatory forms which were specifically addressed in Bid Solicitation Section 4.0 *Quote Preparation and Submission* which states in pertinent part:

Vendor's {Bidder's} failure to complete, sign and submit the forms in Section 4.4.1.2 shall be cause to reject its Quote as non-responsive.

[Bid Solicitation § 4.4.1.2 *NJ Standard Bid Solicitation Forms Required With The Quote.*]

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<sup>1</sup> "Shall - Denotes that which is a mandatory requirement." Bid Solicitation Section 2.2 *General Definitions.*

Among those forms required to be submitted with the Quote is the *Ownership Disclosure Form*. With respect to ownership, the New Jersey Legislature, in implementing N.J.S.A. 52:25-24.2, mandated that a Vendor {Bidder} must supply its ownership information, prior to or with its Quote, to be eligible to enter into a Blanket P.O. with the State. N.J.S.A. 52:25-24.2 states, in pertinent part:

No corporations, partnership, or limited liability company shall be awarded any [Blanket P.O.] nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of any public funds, by the State, or any county, municipality or school district, or any subsidiary agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation, said partnership, or said limited liability company there is submitted a statement setting for the names and addresses of all stockholders in the corporation who own 10 percent or more of its stock, of any class, or of all individual partners in the partnership who own a 10 percent or greater interest therein, or of all members in the limited liability company who own a 10 percent or greater interest therein as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, and member exceeding the 10 percent ownership criteria established in this act, has been listed.

The *Ownership Disclosure Form* is specifically discussed in Bid Solicitation Section § 4.4.1.2.1 which states:

Pursuant to N.J.S.A. 52:25-24.2, in the event the Vendor {Bidder} is a corporation, partnership or limited liability company, the Vendor {Bidder} must complete an Ownership Disclosure Form.

A current completed Ownership Disclosure Form must be received prior to or accompany the submitted Quote. A Vendor's {Bidder's} failure to submit the completed and signed form with its Quote will result in the rejection of the Quote as non-responsive and preclude the award of a Blanket P.O. to said Vendor {Bidder} unless the Division has on file a signed and accurate Ownership Disclosure Form dated and received no more than six (6) months prior to the Quote submission deadline for this procurement. If any ownership change has occurred within the last six (6) months, a new Ownership Disclosure Form must be completed, signed and submitted with the Quote.

In the alternative, to comply with this section, a Vendor {Bidder} with any direct or indirect parent entity which is publicly traded may submit the name and address of each publicly traded entity and the name and address of each person that holds a 10 percent or greater beneficial interest in the publicly traded entity as of the last annual filing with the federal Securities and Exchange Commission or the foreign equivalent, and, if there is any person that holds a 10 percent or greater beneficial interest, also shall submit links to the websites containing the last annual filings with the federal Securities and Exchange Commission or the foreign equivalent and

the relevant page numbers of the filings that contain the information on each person that holds a 10 percent or greater beneficial interest. N.J.S.A. 52:25-24.2.

Vendors {Bidders} using **NJSTART** to submit a Quote shall make the appropriate certification on the “Maintain Terms and Categories” Tab within its profile by checking the applicable box and, if required, completing and attaching the shortened Ownership Disclosure Form. Vendors {Bidders} not using **NJSTART** to submit a Quote must complete the full Ownership Disclosure Form located on the Division’s website.

Vendors {Bidders} may refer to the QRGs “Vendor Forms” and “Attaching Files” for instructions on submitting the forms required by this section of the Bid Solicitation through **NJSTART**. Vendors {Bidders} may also refer to the QRG “Vendor Categories and Certifications” for additional instructions on completing shortened versions of required forms by completing certifications on the “Maintain Terms and Categories” Tab within its profile in **NJSTART**. QRGs are located on the NJSTART Vendor Support Page.

Vendors {Bidders} utilizing **NJSTART** should designate one version of the Ownership Disclosure Form as the Primary Form. In the event that a Vendor {Bidder} fails to attach an Ownership Disclosure Form, or the attached Ownership Disclosure Form is deemed deficient, the Division may access the Primary Form and consider it as part of the Quote. Note: The Primary Form must have a Date Created within six (6) months of the Quote submission deadline to be considered valid.

In order to make this process of certifying easier, the Division provides to the bidding community the *Ownership Disclosure Form* to be completed in order for Vendor {Bidder} to comply with the statutory requirements. As an alternative to submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation § 4.4.1.2.1 above, Vendors {Bidders} using **NJSTART** to submit a Quote are required to make the appropriate certification regarding investment activities in Iran on the “Maintain Terms and Categories” Tab within its profile.

A review of the record of this procurement reveals that on December 17, 2020, CMC submitted Quote No. 00005158.

**Quote 00005158 - contemporary motor car**

General Items Questions Subcontractors Terms & Conditions Attachments(1) Evaluations Preference Reminders Summary

**Header Information**

<b>Quote #:</b>	00005158	<b>Bid #:</b>	20DPP00487	<b>Status:</b>	Submitted
<b>Organization:</b>	Division of Purchase and Property	<b>Delivery Days:</b>	0	<b>Discount Percent:</b>	0.0
<b>Description:</b>	T2103-vehicles, Cargo Vans, Class 11/2/3, Regular/Extended	<b>Alternate Bid:</b>	No	<b>Shipping Terms:</b>	F.O.B. Destination
<b>Bid Flag:</b>	Yes	<b>Payment Term:</b>	Not Applicable	<b>Quote Total</b>	\$1.00
<b>Freight Terms:</b>		<b>Info Contact:</b>	Edward Elefante 100 oceanport Ave Little Silver NJ 07739 732-224-5055	<b>User Created:</b>	Edward Elefante
<b>Ship Via Terms:</b>		<b>Comment:</b>	additional vehicles for sec 6.7,11,12 on second spreadsheet		
<b>Promised Date</b>		<b>Date Last Updated:</b>	12/17/2020 12:41:50 PM	<b>User Last Updated:</b>	Edward Elefante
<b>Print format:</b>	Quote				

**Vendor accepts the terms & conditions with no exceptions.**

**Bid Acknowledgements:**

Document	Amendment Note	Notifications	Acknowledged Date/Time
Amendment 1	Attachment File Changes: Header 1. File 'T2103 20DPP00487 Bid Amendment 1.docx'. File 'T2103 20DPP00487 Bid Amendment 1.docx' added. 2. File 'T2103 20DPP00487 Revised Bid Solicitation 12.1.20.docx'. File 'T2103 20DPP00487 Revised Bid Solicitation 12.1.20.docx' added.	At bid acknowledgement	12/09/2020 11:35:59 AM
Amendment 2	Header 1. Bid Opening Date changed from '12/16/2020 02:00:59 PM' to '12/17/2020 02:00:59 PM'. Attachment File Changes: Header 1. File 'T2103 20DPP00487 Bid Solicitation 10.30.20.docx'. File 'T2103 20DPP00487 Bid Solicitation 10.30.20.docx' deleted. 2. File 'T2103 20DPP00487 Bid Amendment 1.docx'. File 'T2103 20DPP00487 Revised Bid Solicitation 12.1.20.docx'. File 'T2103 20DPP00487 Revised Bid Solicitation 12.1.20.docx' deleted. 4. File 'T2103 20DPP00487 Bid Amendment 1 12.3.20.docx'. File 'T2103 20DPP00487 Bid Amendment 1 12.3.20.docx' added. 5. File 'T2103 20DPP00487 Bid Solicitation 12.3.20.docx'. File 'T2103 20DPP00487 Bid Solicitation 12.3.20.docx' added.	At bid acknowledgement	12/09/2020 11:35:59 AM
Amendment 3	Attachment File Changes: Header 1. File 'T2103 20DPP00487 Bid Amendment 1 12.3.20.docx'. File 'T2103 20DPP00487 Bid Amendment 1 12.3.20.docx' deleted. 2. File 'T2103 20DPP00487 Bid Solicitation 12.3.20.docx'. File 'T2103 20DPP00487 Bid Solicitation 12.3.20.docx' deleted. 3. File 'T2103 20DPP00487 Bid Amendment 1 12.3.20-4.docx'. File 'T2103 20DPP00487 Bid Amendment 1 12.3.20-4.docx' added. 4. File 'T2103 20DPP00487 Bid Solicitation 12.3.20-4.docx'. File 'T2103 20DPP00487 Bid Solicitation 12.3.20-4.docx' added.	At bid acknowledgement	12/09/2020 11:35:59 AM

**Attachments**

**Agency Files:**

**Agency Forms:**

**Vendor Files:** BID 20DPP00487

**Vendor Forms:**

A review of CMC’s submitted Quote No. 00005158 shows that CMC did not upload the *Ownership Disclosure Form* with its Quote. As shown on the screenshot below, CMC only uploaded one document to its Quote. That document was the State-Supplied Price Sheet.

**Quote 00005158 - contemporary motor car**

General Items Questions Subcontractors Terms & Conditions Attachments(1) Evaluations Preference Reminders Summary

**Files**

Name	Description	Confidential	Order	Attached By	Attached Date
BID 20DPP00487 <a href="#">(view details)</a>	ATTACHED FILE WITH ADDITIONAL BID FOR SEC 6.7,11,12	<input checked="" type="checkbox"/>	0	Edward Elefante	12/17/2020

**Forms**

No Form Attachments

[Save & Continue](#) [Close Window](#)

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As an alternative to the submission of the *Ownership Disclosure Form*, as noted in Bid Solicitation Section 4.4.1.2.1 above, Vendors {Bidders} using *NJSTART* to submit a Quote are required to make the appropriate certification regarding ownership disclosure on the “Maintain Terms and Categories” Tab within its profile. With respect to ownership, Vendors {Bidders} are able to select one of the following descriptors:

**Category: Ownership Disclosure**

**Description:** N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity ("interest owners"). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.

Please select at most one category value

Select

- The bidder is a non-profit entity and is exempt from the ownership disclosure requirement. See Disclosure of Non-Profit Officers and Directors below. (No Ownership Disclosure form is required.)
- There are no individuals, partnerships or corporations with a 10% or greater interest in the bidding entity, therefore the bidder is exempt from the ownership disclosure requirement. (No Ownership Disclosure form is required.)
- Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.

As shown in the screenshot below, CMC did complete the Ownership Disclosure category as required. However, CMC's response to the Ownership Disclosure category required that it complete and submit the *Ownership Disclosure Form* either with its Quote or attach the form to its Vendor Profile within **NJSTART**.

**Category: Ownership Disclosure**

**Description:** N.J.S.A. 52:25-24.2 requires disclosure of the names and addresses of those individuals, partnerships and/or corporations owning a 10% or greater interest in the bidding entity ("interest owners"). Further, if any of these interest owners is itself a partnership or corporation, you must disclose the names and addresses of the interest owners of that partnership or corporation.

Neither statement is applicable. A current, true and complete Statement of Bidder Ownership on the attached form has been or will be uploaded to the vendor profile prior to the submission deadline and is intended to accompany the bidder's submission.

As shown in the screenshot below, CMC did not upload the *Ownership Disclosure Form* to its profile.

Vendor Profile - contemporary motor car

Organization Information Users Address Commodity Codes and Services Regions Terms & Categories **Attachments** Vendor Performance

**Attachments Information**

No Attachments found for this vendor.

**Forms**

No Form Attachments

Close Window

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The **NJSTART** system does not prevent a Vendor {Bidder} from submitting a Quote without all of the required forms and documents attached as mandated by the specifications. The responsibility for ensuring that all necessary forms and other submittals, are uploaded into **NJSTART** necessarily and appropriately rests solely with the Vendor {Bidder}. Bid Solicitation § 1.4.2 *Vendor {Bidder} Responsibility*. Here, unfortunately, CMC submitted a Quote without the *Ownership Disclosure Form* attached.

Further, in the protest, CMC states that it submitted the *Ownership Disclosure Form* in November and included a 17-page pdf document as proof of Quote submission. A review of the record of this procurement reveals that CMC *created* seven Quotes in response to the Bid Solicitation.

Quote Number	Status	File Name / Documents attached
00005091	In Progress	“Bid 20DPP00487” – State Supplied Price Sheet
00005115	In Progress	No documents attached
00005120	In Progress	No documents attached
00005121	In Progress	No documents attached
00005122	In Progress	“Bid 20DPP00487” – State Supplied Price Sheet
00005127	Withdrawn	“Bid 20DPP00487” – State Supplied Price Sheet
00005158	Submitted	“Bid 20DPP00487” – State Supplied Price Sheet

However, as shown on the table above, only one of those Quotes was submitted. I note that even if one of the other Quotes listed above as “In Progress” had been submitted, the *Ownership Disclosure Form* was not uploaded to any of those Quotes.<sup>2</sup> Contrary to CMC’s statement that it submitted *Ownership Disclosure Form* in November, the Division does not have any record of CMC having submitted any other Quotes within the prior six month period.

In response to CMC’s question regarding the fact that it has obtained a Vendor ID, please note that a Vendor ID is created when a Vendor starts the registration process. Having a Vendor ID does not indicate that a Vendor has completed all necessary forms required for Quote submission.

In reviewing a Quote submitted in response to a Bid Solicitation, the Division does not have the power to waive the legislative requirement that a Vendor {Bidder} provide its ownership information prior to or accompanying the Quote submission. Only the New Jersey Legislature can change a requirement it has mandated. Unfortunately, CMC did not comply with any of the options available to it for the submission of ownership information. Accordingly, CMC’s Quote was properly rejected by the Division’s Proposal Review Unit for failure to submit the mandatory *Ownership Disclosure Form* with its Quote.

Notwithstanding CMC’s interest in competing for this procurement, to allow CMC to submit the *Ownership Disclosure Form* after bid opening would violate the Legislative requirement outlined in N.J.S.A. 52:25-24.2, a requirement that this Division is not authorized to waive. This is an unfortunate situation for the State as the Division encourages competition and appreciates the time and effort put forth in preparing and submitting the Quote. In light of the findings set forth above, I sustain the Proposal Review Unit’s Notice of Proposal Rejection.

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<sup>2</sup> Should CMC have questions regarding the Quotes created, it may visit the *NJSTART* Vendor Support Page and review the Division’s Quick Reference Guide entitled “How to Review a Submitted Quote,” located at <https://www.state.nj.us/treasury/purchase/njstart/pdf/HowtoReviewaSubmittedQuote.pdf>, which provides information and instructions on how to review created and/or submitted Quotes.

Thank you for your company's continuing interest in doing business with the State of New Jersey and for registering your business with **NJSTART** at [www.njstart.gov](http://www.njstart.gov). I encourage you to log into **NJSTART** to select any and all commodity codes for procurements you may be interested in submitting a Quote for so that you may receive notification of future bidding opportunities. This is my final agency decision on this matter.

Sincerely,

*Rachel Doobrajh*

Rachel Doobrajh  
Acting Chief Hearing Officer

- c. J. Kerchner
- K. Thomas
- S. Ghorbani
- A. Bell
- A. Nelson
- D. Rodriguez